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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,375	03/10/2000	Noriaki Hashimoto	051633-5001	5891
6449	7590	06/14/2004	EXAMINER	
ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			PHUNKULH, BOB A	
		ART UNIT	PAPER NUMBER	
		2661	12	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/523,375	HASHIMOTO, NORIAKI	
	Examiner Bob A. Phunkulh	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 March 2004 and 31 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 3-8 and 11-112 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 3-8 is/are allowed.
 6) Claim(s) 11,12,19-21,23,30-33,42,43,50-53,60,61,63-66,75-78,87-90,99-102,111 and 112 is/are rejected.
 7) Claim(s) 13-18,22,24-29,34-41,44-49,54-57,62,67-74,79-86,91-98 and 108-110 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

This communication is in response to applicant's 03/31/2004 and 3/22/2004 amendment(s)/response(s) in the application of **HASHIMOTO** for "**METHOD AND SYSTEM FOR OPERATIN OF A RESILIENT CLOSED COMMUNICATION NETWORK WITHOUT A DEDICATED PROTECTION NETWORK SEGMENT**" filed 03/10/2000.

The amendments/response to the claims have been entered. Claims 1-2, 9-10, have been canceled. No claims have been added. Claims 3-8, 11-112 are now pending.

Claim Objections

Claim 11 is objected to because of the following informalities: please correct the "third" to -second—and "fourth" to -third--. Appropriate correction is required.

Claim 21 is objected to because of the following informalities: please correct the "third" to -second— in line 18 and 21 and 22; and "fourth" to -third—line 24. Appropriate correction is required.

Claims 22 and 62 are objected to because of the following informalities: please correct the "third" to -second—in line 3; and "fourth" to -third—in line 8. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11, 19-21, 30-32, 42, 50-52, 60-61, 63-65, 75-77, 87-89, 99-101, 111-112 are rejected under 35 U.S.C. 102(e) as being anticipated by Dantu et al. (US 6,532,088), hereinafter Dantu.

Regarding claims 11, 21, 32, 42, 52, 65, 77, 89, 101, Dantu discloses a method for operating a resilient closed communication network comprising at least one communication ring, the method comprising the steps of:

-receiving data packet from a first external network at a first distributing station connected to the resilient closed communication network (receiving IP packet 124 at node 204, see figure 2);

-identifying a second distributing station connected to the resilient closed communication network from which the data packet is to be forwarded to a second external network;

-appending the data packet form the first distributing station to the data packet before it leaves the first distributing station (see figure 11 and col. 16 lines 56 to col. 17 line 14);

-selecting a functioning routes from the first distributing station to the second distributing station within the resilient closed communication network (see col. 16 lines 56 to col. 17 line 14);

-selecting an optimal route among the functioning routes;

-receiving the data packet at a second distributing station from the first distributing station; and

-forwarding the data packet to the second external network connected to the second distributing station after removing the identification number from the data packet; if the identification number of the second distributing station is the same as the identification number appended to the data packet, or otherwise forwarding the data packet to a third distributing station the is different from the first distributing station (see col. 16 lines 56 to col. 17 line 14).

Regarding claims 19, 30, 50, 60, 63, 75, 87, 99, 111, Dantu discloses no segment of the at least one communication ring is used as a dedicated protection segment (see col. 8 line 12-14).

Regarding claims 20, 31, 51, 61, 64, 76, 88, 100, 112, Dantu discloses the at least one communication ring is made of fiber optic cables (see col. 8 lines 1-19).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 23, 33, 43, 53, 66, 78, 90, 102, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dantu.

Regarding claims 12, 23, 33, 43, 53, 66, 78, 90, 102, Dantu fails to disclose the optimization factors including an available traffic volume, an actual distance value, and a preference value.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to cause the processor 402 of node 400 to consider the traffic volume, distance, and preference value when determining the path route in order to avoid overloading the communication link.

Allowable Subject Matter

Claims 3-8 are allowed.

Claims 13-18, 22, 24-29, 34-41, 44-49, 54-57, 62, 67-74, 79-86, 91-98, 108-110 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Or:

Hand-delivered responses should be brought to Crystal Park II, 2021
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is (703) 308-8251. The examiner can normally be reached on Monday-Friday from 8:00 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Douglas W. Olms**, can be reach on (703) 305-4703. The fax phone number for this group is (703) 872-9314.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bob A. Phunkulh



TC 2600
Art Unit 2661
June 14, 2004